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September 22, 2022

VIA ECF

Honorable Lewis J. Liman
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

**Re: Martinenko v. 212 Steakhouse, Inc.
No. 22 CV 518 (LJL)**

Dear Judge Liman:

We represent the Plaintiff in the above-referenced action. We are writing the Court to respectfully request that the Court issue an order compelling Defendant 212 Steakhouse Inc., (“Defendant”) to attend its previously noticed deposition. On August 11, 2022, Plaintiff’s counsel served a deposition notice pursuant to Fed. R. Civ. P. 30(b)(6) on Defendant. The deposition notice was for a 10AM deposition on September 22, 2022 at Plaintiff’s counsel’s office. *See Exhibit A.* Further, on August 31, 2022, Plaintiff’s counsel filed a letter with the Court explaining that Plaintiff noticed Defendant’s deposition for September 22, 2022. (Dkt. No. 49). Defendant made no objection to the date, time, or location of the deposition.

Today, Defendant did not appear at Plaintiff’s counsel’s offices for the scheduled deposition. Plaintiff’s counsel is available to take Defendant’s deposition on either October 6, 2022 or October 12, 2022. Accordingly, we respectfully request that the Court order Defendant to select either October 6, 2022 or October 12, 2022 as the rescheduled date for the deposition, notify Plaintiff’s counsel of the selected date by October 1, and designate a witness to appear on its behalf at 10AM at Plaintiff’s counsel’s office on the date selected. Plaintiff also intends to seek sanctions pursuant to Fed. R. Civ. P. 37(d) for Defendant’s failure to appear at its deposition. However, we respectfully request that Plaintiff be permitted to move for such sanctions at the same time as Plaintiff moves for the other previously contemplated discovery sanctions, which, per the Court’s order (Dkt. No. 50), would be shortly after Defendant’s deposition.

We thank the Court for its consideration of this matter.

Respectfully submitted,

/s/ Michael DiGiulio
Michael DiGiulio

cc: All counsel (via ECF)